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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/539,834	03/31/2000	Todd Siegel	084016.00009	9608

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EXAMINER

TAWFIK, SAMEH

ART UNIT PAPER NUMBER

3721

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/539,834	<b>Applicant(s)</b> SIEGEL ET AL.	
	<b>Examiner</b> Sameh H. Tawfik	<b>Art Unit</b> 3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- |   |  |
|---|--|
| 15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 20) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(claim 7, lines 4-6) "...effecting relative motion in at least two directions between the funnel and plurality of product package template cavities..." is vague, indefinite, and/or confusingly worded because it is not clear what applicants are referring to, what is that moving in two directions between the funnel and plurality of product package template cavities? and/or the funnel itself or the template are moving?

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al. (4,664,289) in view of Knudsen (4,490,963).

Shimizu discloses a method of filling solid pharmaceutical product packaging comprising the steps of automatically selectively dispensing one or more solid pharmaceutical products from a plurality of different drug sources (Fig. 26; via 84) into a common funnel (Fig. 26; via funnel

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5) and “effecting relative motion in at least two directions between the funnel and plurality of product package template cavities” to selectively locate the funnel (5) over individual ones of the package (via in the packing mechanism 6) in order to place one or more solid pharmaceutical products from the plurality of different drug sources (84) into each of said plurality of packages (Fig. 26; via packing mechanism 6 and column 13, lines 42-50), and thereafter automatically transferring the solid pharmaceuticals located package member (via packing mechanism 6). Shimizu does not disclose a package template cavities; nor while dispensing the solid pharmaceutical products, simultaneously sealing another pharmaceutical product package that has been previously filled; nor a step of printing information on a pharmaceutical product package; nor placing the cavities beneath the funnel. However, Knudsen discloses a similar method of filling solid pharmaceutical product packaging comprising a package template cavities (Figs. 6 and 12; via 2); and while dispensing the solid pharmaceutical products, simultaneously sealing another pharmaceutical product package that has been previously filled (Fig. 1; via sealing station 18 placed after loading station 16 on the sheet feeding direction); a step of printing information on a pharmaceutical product package (column 2, lines 11-13); and placing the cavities beneath the filling means (Fig. 5; via loading station).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Shimizu’s method of filling solid pharmaceutical product packaging by using a package template cavities; and while dispensing the solid pharmaceutical products, simultaneously sealing another pharmaceutical product package that has been previously filled; a step of printing information on a pharmaceutical product package; and placing the cavities beneath the funnel, as suggested by Knudsen, in order to package two

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capsules at a time to speed up the process and providing information concerning the objects being packaged on the material from which the package is formed (column 2, lines 8-14).

***Response to Arguments***

Applicant's Appeal Brief filed on 07/02/2004 with respect to claims 7-13 have been considered but are moot in view of the new ground(s) of rejection.

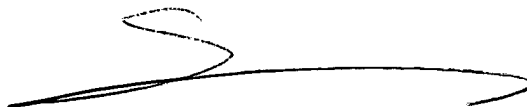
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sameh H. Tawfik  
Patent Examiner  
Art Unit 3721



ST.